IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

LA.App..No. 1128 of 2000()

LAR.261/1994 of PRL.SUB COURT, KOZHIKODE
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APPELLANT: RESPONDENT

REVENUE DIVISIONAL OFFICER, KOZHIKODE.

BY GOVERNMENT PLEADER SRI K.V.MANOJ

RESPONDENTS: CLAIMANTS
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1. KAVALAPPARA MOOPIL NAIR, REP. BY SRI E.P.RAMACHANDRAN, NEW RECEIVER, ADVOCATE, SUB COURT, OTTAPALAM.

2. AMBALAVAN ABOOBACKER, UNDER THE MANAGEMENT OF COURT RECEIVER, SRI P.GOVINDANKUTTY, ADVOCATE, SUB COURT, OTTAPALAM.

3. SECRETARY, REVATHY EDUCATIONAL SOCIETY, KINTERGARDEN-CUM-PREPARATORY SCHOOL, PANNIYANKARA.

BY ADV. SRI.SANTHEEP ANKARATH

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 11/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

CMP 5204/2000 IN LAA 1128/2000

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DISMISSED.

11.9.2007. Id/- KURIAN JOSEPH, JUDGE
Id/- HARUN-UL-RASHID, JUDGE.

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.No.1128 of 2000-B

Dated: September 11, 2007

JUDGMENT

Harun-Ul-Rashid, J.

This appeal was filed by the State against the judgment and decree dated 21.12.1999 in LAR No.261/1994 on the file of the Sub Court, Kozhikode. The land belonging to the claimant was acquired for the purpose of establishment of a Posts and Telegraphs Office. The extent acquired is 0.6186 hectares of garden land comprised in R.S.No.TS 23-1-17/1 of Panniyankara village. Sec.4(1) notification was published on 12.10.1988 and the land was taken possession of on 23.7.1994. In the reference before the court below the claimant claimed Rs.25000/- per cent for the value of the land and Rs.12 lakhs for the building.

2. In support of the claim for compensation PW.1 was examined. On the side of the respondent RW.1 was examined. Exts.C1 to C3 were also marked. In Ext.C3 report, the Commissioner valued the building which is having a plinth area of 4732 Sq. ft. at Rs.11,70,000/-. The court below fixed as compensation a consolidated amount of Rs.20 lakhs.

3. The land acquisition officer awarded land value at the rate of Rs.6690.52 per cent. The court below discussed Exts.C1 to C3 reports. There is no discussion or finding entered by the court below as to the proper market value of the land acquired. Similarly, there is no discussion or finding entered as to the value of the structures in the property. The court below held that the claimant is entitled to get a sum of Rs.20 lakhs as compensation with all

other benefits of the Land Acquisition Act. There is no discussion on the point as to what exactly is the market value of the property as also the market value of the structures in the property. There was no discussion of the oral or documentary evidence except the details stated in Exts.C1 to C3 reports.

4. The learned Government Pleader submitted that the judgment and decree passed by the court below is not legal since there is no discussion or finding arriving at by the court below regarding the value of the land or the building and that the court below erred in fixing a consolidated amount as compensation without any supporting materials or evidence. We find that the judgment and decree under appeal is not based on any finding recorded. Even the available materials on record were not discussed in arriving at the market value of the property and structures.

In the circumstances the appeal is allowed and the judgment and decree under appeal are set aside. The case is remanded to the court below for fresh consideration. The parties are free to adduce further evidence, if any. We also order refund of full amount of court fee paid on the memorandum of appeal.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE.

mt/-

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A. No.1128/2000-B

JUDGMENT

11.9.2007